

June 15, 2005

**THIS IS NOT AN OFFICIAL STATEMENT
OF THE COURT, BUT IS INTENDED
SOLELY FOR THE CONVENIENCE OF
THE PRESS**

FOR IMMEDIATE RELEASE

IN THE SUPREME COURT OF THE STATE OF IDAHO

2005 Opinion No. 68

MONTE T. REESE,

Claimant-Appellant,

v.

**V-1 OIL COMPANY, dba V-1 PROPANE,
Employer, and OLD REPUBLIC
INSURANCE COMPANY, Surety,**

Defendants-Respondents.

Docket No. 31014

Appeal from the Idaho Industrial Commission

Richard S. Owen, Nampa, argued for Claimant-Appellant.

Moffatt, Thomas, Barrett, Rock & Fields, Chtd., Boise, for the Defendants-Respondents.
Glenna M. Christensen argued.

In a unanimous opinion, the Idaho Supreme Court reversed the Idaho Industrial Commission's order, which denied the Claimant-Appellant Monte Reese (Reese) workers' compensation.

The employer wrongfully denied Reese the only treatment recommended by Reese's treating physician to alleviate Reese's continuing pain following back surgery performed on his lower back as a result of a work-related injury. Reese ultimately sought care from another physician, who performed a second surgery that alleviated most of the pain. The Industrial Commission denied medical benefits for the second surgery and total temporary disability benefits during the period of recovery because the claimant had not obtained permission from the employer or Commission before changing physicians. Reese appealed.

On appeal, Reese contended that the Commission erred in applying Idaho Code §§ 72-432(1) and 72-408 to the facts of his case. Specifically, Reese asserted that reimbursement for an alternative course of treatment sought after having been denied care for a separate course of treatment is proper under Idaho Law. Reese also contended that the Commission erred by failing to entertain Reese's request for total temporary disability benefits.

The Idaho Supreme Court reversed the Industrial Commission's decision and ordered that Reese be awarded medical benefits related to his second surgery. The Court specifically found that the Commission erred in holding that Reese was required to seek permission for a change of physician once his employer had wrongfully ceased providing medical care as required by Idaho Code § 72-432(1). Pursuant to its order regarding the medical benefits, the Court also reversed the Industrial Commission's denial of Reese's request for total temporary disability benefits. The Court also noted that entitlement to income benefits is not dependent upon the employee compliance with Idaho Code § 72-432(4)(a).